

## BY ELECTRONIC TRANSMISSION

February 15, 2021

Ann E. Misback, Secretary  
Board of Governors of the Federal Reserve System  
20th St., and Constitution Ave., N.W.  
Washington, D.C. 20551

RE: Federal Reserve Docket No. R-1723 and RIN 7100-AF94, Community Reinvestment Act

Dear Ms. Misback:

I am encouraged by and appreciate the Board's effort to engage community stakeholders and accept comment letters as part of the rulemaking process to modernize the Community Reinvestment Act (CRA). Through this process, we should seek to create more opportunities for banks to promote economic development and provide access to capital. I am concerned that any change to the presumption of "promoting economic development" for the U.S. Department of Agriculture's (USDA) Rural Business Investment Companies (RBICs) and the U.S. Small Business Administration's (SBA) Small Business Investment Companies (SBICs) will significantly limit access to capital for small businesses and the formation of government certified/licensed job creation programs such as the RBICs and SBICs.

- **Question 57.** *What other options should the Board consider for revising the economic development definition to provide incentives for engaging in activity with smaller businesses and farms and/or minority-owned businesses?*

On January 27, 2021, Federal Reserve Board of Governors (FED) Chairman Jerome Powell said that the top priority for the FED is to obtain maximum employment. The proposed revision to the economic development definition would bring dramatic and significant consequences to funding of Federal job creation and economic development programs including the RBIC and SBIC, among others. Economic development programs structured and administered by Federal agencies should continue to qualify for CRA credit for all banks. When banks are unwilling to lend to or unable to invest in small businesses, licensed RBICs and SBICs step up to fill the capital gap necessary to support the growth of those businesses and help create jobs across America. At a time when our rural communities and small businesses are struggling the most, we should look to modernize the CRA to encourage banks to do more. We should encourage participation in Federal government programs that are subject to rigorous oversight and offer true multipliers of capital through public-private partnerships.

Programs such as the RBIC and SBIC have proven to create jobs, and are vital and directly responsive to

small businesses seeking access to the capital, professional guidance and partnerships needed to grow into stronger businesses. A recent independent study prepared for the Library of Congress found that SBIC-backed small businesses created almost 3 million new jobs and supported an additional 6.5 million jobs over the 20-year period of their study.<sup>1</sup>

In addition to owning and financing small businesses, since 2009, SBICs must have 25% (in dollars) of its financings in "smaller enterprises".<sup>2</sup> SBICs that are non-compliant with this standard have until the end of the following fiscal year to come into compliance or face severe consequences including ineligibility for additional Federal leverage.<sup>3</sup> USDA regulations require that more than 50% of RBIC financings (in dollars) must go to "smaller enterprises" that meet either a net worth/net income or size standard test.<sup>4</sup> The SBA and USDA continue to look for ways to improve their respective programs to be responsive to small business needs and access to capital.

- **Question 58.** *How could the Board establish clearer standards for economic development activities to "demonstrate LMI job creation, retention, or improvement"?*

I suggest leveraging the federal data collection sources and best practices to find reliable metrics to measure the standards. For example, SBA collects quarterly data from SBICs about job creation and retention by their portfolio companies reported in SBA Form 1031. Identifying existing federal data sources from successful economic development programs would be a better use of limited federal dollars and personnel than setting new standards.

It is important that CRA modernization spur further investment in and access to capital to small businesses. Small businesses were most impacted by the COVID global pandemic and we should not leave them behind as we rebuild for the future.

Sincerely,

Eric Rosiak

B Riley Securities

Managing Director

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<sup>1</sup> Paglia and Robinson, Measuring the Role of the SBIC Program in Small Business Job Creation, Report for the Library of Congress, at 4 (January 2017) <[https://www.sba.gov/sites/default/files/articles/SBA\\_SBIC\\_Jobs\\_Report.pdf](https://www.sba.gov/sites/default/files/articles/SBA_SBIC_Jobs_Report.pdf)>.

<sup>2</sup> 13 CFR 107.710. The percentage requirement is adjusted slightly for levered and non-levered SBICs licensed prior to 2009.

<sup>3</sup> See 13 CFR §107.1120(c) and (g).

<sup>4</sup> 7 CFR 4290.700 (a)(2).